

application as required for this customer installation, and in fact authorized on the face of the license or a separate technology license, may not be undertaken while the license is suspended or revoked.

[61 FR 12920, Mar. 25, 1996, as amended at 61 FR 64286, Dec. 4, 1996]

§ 770.4 Interpretations related to chemical mixtures—*de minimis* exceptions examples.

(a)(1) *Introduction:* The following are examples for applying the *de minimis* exceptions for chemical mixtures containing precursor and intermediate chemicals controlled under ECCN 1C350.

(2) In ECCN 1C350, Note 2, paragraphs (c) and (d) within the Mixtures Exemptions state that a validated license is required when at least one of the listed chemicals constitutes more than 10% or 25%, respectively, of the weight of the mixture on a solvent free basis.

(b)(1) *Example One.* A mixture contains the following components:

(i) 90% polymer polyol (a liquid raw material used to make polyurethane polymers); and

(ii) 10% Australia Group (AG)-controlled chemical eligible for 25% *de minimis* exemption.

NOTE TO PARAGRAPH (B) OF THIS SECTION: The polymer does not dissolve the AG-controlled chemical.

(2) In this example, the polymer polyol does not dissolve the AG-controlled chemical (the only other component of the mixture). Therefore, the polyol is NOT considered a solvent, and the concentration of the polymer polyol is included in the concentration calculation. As a result, the AG-controlled chemical's concentration is 10% when calculated on a solvent-free basis (.10/1.00). Accordingly, this concentration is below the threshold concentration of 25% applicable to specific AG-controlled chemicals under the chemical mixtures rule and can be exported under NLR to all destinations except Iran, Sudan, Syria, and Country Group E:2 in Supplement No. 1 to part 740 of the EAR.

(3) To determine the classification of this mixture, it is necessary to determine whether the polymer is capable of

functioning as a solvent for the other components of the mixture. If the polymer polyol is capable of functioning as a solvent for the controlled AG chemical, then the polymer component is omitted from the concentration calculation. If the polymer polyol is not capable of functioning as a solvent for the AG chemical, then the polymer component is included in the concentration calculation.

(c)(1) *Example Two:* An automotive coolant (antifreeze) is a mixture of the following components:

(i) 75% ethylene glycol;

(ii) 10% additive package; and

(iii) 15% water.

NOTE TO PARAGRAPH (C) OF THIS SECTION: The "additive package" contains an AG-controlled chemical that is eligible for the 10% *de minimis* exemption. This chemical is added as a stabilizer and represents 9% of the total mixture. The remaining components of the additive package are various dyes and stabilizers that represent 1% of the total mixture. Ethylene glycol serves as the basic functional ingredient that prevents the engine block from freezing, and does not dissolve the other components of the mixture. The water is added to keep the mixture in solution.

(2) To determine if this mixture requires a license it is necessary to calculate the concentration of the AG-controlled chemical on a solvent-free basis. Since the water dissolves all of the other components of the mixture, water is considered a "solvent" and the quantity of water present is not included in the calculation of the AG-chemical concentration. Consequently, the concentration of the AG chemical is approximately 11% (.09/.85), and the mixture is classified under ECCN 1C350. Accordingly, since this concentration is above the threshold concentration of 10% applicable to this category of AG-controlled chemical under the chemical mixtures rule, a license is required to all destinations except AG member countries.

(d)(1) *Example Three.* A pesticide formulation consists of an AG-controlled chemical that is eligible for the 25% *de minimis* exemption, and an active ingredient that is not AG-controlled. The formulation is diluted with water to allow safe, effective, and economic application. The resulting mixture is 15% AG chemical, 40% active ingredient

and 45% water. Although the water is added as a diluent, it dissolves the other components of the mixture.

(2) Since the water dissolves all components in the mixture, it is considered a solvent even though it was added as a diluent. The percent concentration of the AG-controlled chemical calculated on a solvent free basis is $.15/.55 = 27\%$, and the mixture is therefore classified under ECCN 1C350. Accordingly, since this concentration is above the threshold concentration of 25% applicable to this category of AG-controlled chemicals under the chemical mixtures rule, a license is required to all destinations except AG member countries.

(e)(1) *Example Four.* A mixture contains the following components:

- (i) 10% water;
- (ii) 22% Chemical A;
- (iii) 21% Chemical B;
- (iv) 20% Chemical C;
- (v) 19% Chemical D; and
- (vi) 8% Chemical E.

NOTE TO PARAGRAPH (E) OF THIS SECTION: The water is added to dissolve the other components of the mixture. Chemicals A, B, C, and D are AG-controlled chemicals each eligible for 25% *de minimis* exemption. Chemical E is an AG-controlled chemical eligible for 10% *de minimis* exemption.

(2) In this example, water is considered a solvent since it dissolves all components in the mixture. Therefore, the quantity of water present in the mixture is not included in calculating the concentrations of the controlled chemicals on a solvent-free basis. The concentrations of the controlled chemicals are as follows: Chemical A 24%; Chemical B 23%; Chemical C 22%; Chemical D 21%; Chemical E 9%. It is important to note that in this example, even though the cumulative amount of the mixture (90%) consists of controlled chemicals, each one of the controlled chemicals is below the *de minimis* level for its category. Consequently, this mixture can be exported under NLR to all destinations except Iran, Sudan, Syria, and Country Group E:2 in Supplement No. 1 to part 740 of the EAR.

PART 772—DEFINITIONS OF TERMS

AUTHORITY: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; E.O. 12924, 59 FR 43437, 3

CFR, 1994 Comp., p. 917; Executive Order 13026 (November 15, 1996, 61 FR 58767) Notice of August 15, 1995 (60 FR 42767, August 17, 1995); and Notice of August 14, 1996 (61 FR 42527).

SOURCE: 61 FR 12925, Mar. 25, 1996, unless otherwise noted.

The following are definitions of terms as used in the Export Administration Regulations (EAR). In this part, references to the EAR are references to 15 CFR chapter VII, subchapter C. Those terms in quotation marks refer to terms used on the Commerce Control List (CCL) (Supplement No. 1 to part 774 of the EAR). Parenthetical references following the terms in quotation marks (i.e., (Cat 5)) refer to the CCL category in which that term is found.

“ATM.” (Cat 5)—See “Asynchronous Transfer Mode.”

“Accuracy.” (Cat 2 and 6)—“Accuracy” is usually measured in terms of inaccuracy. It is defined as the maximum deviation, positive or negative, of an indicated value from an accepted standard or true value.

“Active flight control systems.” (Cat 7)—Function to prevent undesirable “aircraft” and “missile” motions or structural loads by autonomously processing outputs from multiple sensors and then providing necessary preventive commands to effect automatic control.

“Active pixel.” (Cat 6 and 8)—A maximum (single) element of the solid state array that has a photoelectric transfer function when exposed to light (electromagnetic) radiation.

“Adaptive control.” (Cat 2)—A control system that adjusts the response from conditions detected during the operation (Ref. ISO 2806-1980).

Advisory Committee on Export Policy (ACEP). The ACEP voting members include the Assistant Secretary of Commerce for Export Administration, and Assistant Secretary-level representatives from the Departments of State, Defense, Justice (for encryption exports), Energy, and the Arms Control and Disarmament Agency. The appropriate representatives of the Joint Chiefs of Staff and the Director of the Nonproliferation Center of the Central Intelligence Agency are non-voting members. The Assistant Secretary of Commerce for Export Administration